

**FILED**

DECEMBER 15, 2006

**NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS**

EFFECTIVE: Nunc Pro Tunc Nov. 8, 2006

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF MEDICAL EXAMINERS

In the Matter of:

JAN SORIANO, M.D.

FINAL ORDER GRANTING  
MOTION FOR SUMMARY  
DECISION AND SUSPENDING  
LICENSURE

This matter was initially opened before the New Jersey State Board of Medical Examiners (the "Board") on June 8, 2006, upon the Attorney General's filing of a two count administrative complaint seeking the suspension or revocation of the license of respondent Jan Soriano, M.D. Within the Complaint, the Attorney General alleged that cause to revoke or suspend respondent's license existed based on respondent's having been criminally convicted and sentenced for the illegal possession of crack cocaine, and based on an alleged present impairment as a consequence of his use of cocaine. The matter is currently before the Board on the application of the Attorney General for an Order granting summary decision on the complaint.

We herein grant the motion for summary decision on that portion of the Complaint (Count 1) which is predicated upon respondent's criminal conviction for the illegal possession of a controlled dangerous substance, namely crack cocaine. Simply put,

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there is no issue of fact that requires any further administrative proceedings, as it is beyond dispute that respondent was in fact convicted of that crime following a jury trial. We deny the motion for summary decision on Count 2 of the Complaint, as we conclude that a genuine issue of material fact exists based on respondent's having introduced a letter dated June 13, 2006, from Paul Buttros, General Manager of the Flynn Fellowship Houses of New Jersey, Inc., which suggests that respondent completed a monitoring program for drug use (following his conviction) without any substance abuse issue being identified and with all drug test results being negative.

We conclude that respondent's conviction, and the facts established by that conviction, clearly provide grounds upon which we may take disciplinary action pursuant to N.J.S.A. 45:1-21(f) (conviction of a crime relating adversely to the practice of medicine) and 45:1-21(e) (professional misconduct), and order the suspension of respondent's license to practice medicine and surgery in the State of New Jersey for a period of not less than six months. Recognizing that respondent's conviction is for actions which engender concerns about his present fitness to practice, we define herein those evaluations which respondent must secure before we will consider any application he may make for reinstatement of his license. Finally, we assess investigative costs and attorneys' fees against respondent, but waive the imposition of any monetary

penalties. We set forth below a more complete discussion of the procedural history of this matter, the evidence before the Board on the motion for summary decision and the basis for our determination to grant partial summary decision on Count 1 of the Complaint, and the basis for the penalty determinations we have made.

#### *Procedural History*

As noted above, this matter was brought before the Board on the filing of a two count administrative complaint by the Attorney General. Within Count 1 of the Complaint, the Attorney General alleged that respondent engaged in acts which led to his being convicted of the crime of possession of a controlled dangerous substance in the Third Degree. The Attorney General alleged that respondent's criminal conviction, and the conduct established by that conviction, constituted grounds for the Board to impose discipline pursuant to N.J.S.A. 45:1-21(e), 45:1-21(f), and 45:1-21(i), and/or based on respondent's failure to fulfill the ongoing statutory requirement for licensure of good moral character. Within Count 2 of the Complaint, the Attorney General alleged that respondent admitted to a current condition of drug impairment when, through counsel, he acknowledged and fully accepted responsibility for his actions. Respondent's present impairment is alleged to constitute grounds for the Board to impose discipline pursuant to N.J.S.A. 45:1-21(i) and 45:1-21(l) and/or

based on respondent's failure to fulfill the ongoing statutory requirement for licensure of good moral character.<sup>1</sup>

Respondent filed an answer to the Complaint on June 21, 2006, wherein he neither specifically admitted nor denied any of the allegations within the Complaint. Following the filing of

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<sup>1</sup> N.J.S.A. 45:1-21 provides, in relevant part, as follows:

A board may ... refuse to issue or may suspend or revoke any certificate, registration or license issued by the board upon proof that the ... holder of such certificate, registration or license:

...

e. Has engaged in professional or occupational misconduct as may be determined by the board;

f. Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the board. For the purpose of this subsection a judgment of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;

...

i. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;

...

1. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term "presently" means at this time or any time within the previous 365 days.

respondent's answer, the Attorney General moved for entry of summary decision on both counts of the complaint, and sought the entry of an Order revoking respondent's license and assessing costs, penalties and other relief. Briefs and certifications in support (September 28, 2006) and in opposition (October 31, 2006) to the motion were filed by the respective parties.

This matter was scheduled for oral argument on the Attorney General's motion for summary decision on November 8, 2006. The parties were advised in advance of said proceeding that, in the event the Board entered summary decision, in part or in whole, the Board would immediately proceed to hold a hearing on the issue of penalty to be assessed, at which hearing respondent would be afforded an opportunity to present any evidence he might choose to submit for the Board to consider in mitigation of penalty.

On November 8, 2006, Deputy Attorney General Doreen Hafner appeared on behalf of complainant Stuart Rabner, Attorney General of New Jersey. Annette Verdesco, Esq., appeared on behalf of respondent Jan Soriano, M.D. The Board entertained oral argument from counsel on the motion for summary decision, and allowed both parties the opportunity to enter into the record documents in support and in opposition to the motion.<sup>2</sup> Deputy

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<sup>2</sup> In support of the motion, the Attorney General relied upon the following documents:

S-1 Police Investigation Report re: arrest of Dr. Soriano; prepared by Brian Townsend, dated October

Attorney General Hafner argued that there were no issues of fact in this case, as it was beyond dispute that respondent had been convicted of the possession of controlled dangerous substances. She argued that summary decision was also appropriate on Count 2 of

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1, 2003.

- S-2 Supplemental Police Report re: arrest of Dr. Soriano; prepared by James Scully, dated January 3, 2005.
- S-3 Criminal Complaint, State of New Jersey v. Jan R. Soriano [charging Dr. Soriano with unlawful possession of a controlled dangerous substance to wit, crack cocaine, in violation of N.J.S. 2C:35-10A(1)], dated September 28, 2003.
- S-4 Judgment of Conviction in State of New Jersey v. Jan Soriano, filed June 17, 2005.
- S-5 Transcript of Charge to Jury, State of New Jersey v. Jan Soriano and Robert Cerone, March 18, 2005.
- S-6 Verdict Sheet, State of New Jersey v. Jan Soriano.
- S-7 Transcript of Sentencing, State of New Jersey v. Jan Soriano, June 17, 2005.
- S-8 Certification of Louis S. Baxter, M.D., dated September 22, 2006.

In opposition to the motion, respondent relied upon the following documents:

- R-1 Certification of Dr. Soriano dated October 31, 2006.
- R-2 Letter dated June 13, 2006 from Paul Buttros, General Manager of the Flynn Fellowship Houses of New Jersey.

Respondent additionally attached a copy of the transcript of oral argument on a motion to suppress evidence in State of New Jersey v. Jan Soriano and Robert Cerone, argued before the Honorable Anthony J. Mellaci, J.S.C., on August 18, 2004.

the Complaint, based on respondent's having made multiple statements (both at the time of his arrest and through his counsel at the time of sentencing) that acknowledged that he had a substance abuse problem, and based on evidence demonstrating that he had repeatedly failed in the past to maintain enrollment in and comply with recommendations made by the Physicians' Health Program (the "PHP").<sup>3</sup>

Ms. Verdesco suggested that the Board should defer making any decision whether to grant or deny summary decision, primarily for the reason that respondent's conviction is presently being appealed. Ms. Verdesco argued that there was a strong likelihood that respondent would be successful before the Appellate Division.<sup>4</sup> Ms. Verdesco further argued that it would be inappropriate to grant summary decision on Count 2 of the complaint, because the issue was reasonably in dispute based on the documentation submitted by respondent to include his own certification denying any illegal

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<sup>3</sup> The Physicians' Health Program of the Medical Society was a program, previously sponsored by the Medical Society of New Jersey, which provided evaluation, monitoring and treatment services for physicians suffering from drug, alcohol or other impairments. The PHP was succeeded by the Professional Assistance Program of New Jersey.

<sup>4</sup> While we do not have copies of any papers filed in the appellate action, Ms. Verdesco suggested that the issues that were raised on appeal were: 1) whether there was sufficient evidence to support the verdict and 2) whether the trial judge properly decided respondent's motion to suppress evidence.

drug use and the letter from Mr. Buttros of the Flynn Fellowship Houses of New Jersey, Inc.

*Entry of Partial Summary Decision*

*A. Entry of Summary Decision on Count 1*

On review of the record before us, we conclude that cause exists to grant the Attorney General's motion for summary decision on Count 1 of the Complaint, as there are simply no genuine issues of material fact in dispute that would necessitate or warrant any further hearings. See N.J.A.C. 1:1-12.5(a) and Brill v. Guardian Life Ins. Co., 142 N.J. 520 (1995). It thus is beyond dispute that respondent was charged in a criminal complaint with one count of possession of a controlled dangerous substance, crack cocaine, in violation of N.J.S.A. 2C:35-10a(1) (S-3). On March 18, 2005, respondent was convicted of that offense, a Third Degree crime, following a jury trial at which respondent testified on his own behalf (S-4).

When meting out sentence after the conclusion of the trial, Judge Milessi stated on the record that he did not believe Dr. Soriano's testimony and that Dr. Soriano had no credibility. (S-5).<sup>5</sup> On June 17, 2005, respondent was sentenced to eighteen

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<sup>5</sup> Judge Milessi then stated:

This is a 58-year old individual who was tried before this Court with the co-defendant on March 17<sup>th</sup> and 18, 2005, on a charge of possession of CDS, a third degree, on indictment 04-03-0658. The jury found him guilty. He testified in that case. The jury did not



months probation; to pay fines and penalties over the period of probation in equal installments at \$92.00 per month and to attend substance abuse testing/TASC evaluation; to follow all recommendations made (and to provide a DNA sample); and a mandatory drivers license suspension of six months. (S-4). At the time that he was sentenced, respondent, through his attorney, apologized for his conduct to the Court and stated that his misconduct was the result of a drug addiction problem. He asked that the Court consider the fact that he was fully accepting responsibility to be

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believe his explanation that he gave; and frankly, whereas I understand Mr. Bergrin is indicating that he is remorseful -- "he" being the defendant -- I don't see it. ... And I think he needs a reality check. I think he's got serious problems. Not only does he have serious problems in the way of a possible addiction, but he's got serious problems in that if he's remorseful for what he did, it means that he perjured himself here during the trial.

I don't believe his story during the trial. I never did. And, frankly, the statements in the presentence investigation report of the co-defendant support my belief that he was lying during the trial. And he should be ashamed of himself, absolutely ashamed of himself. He purchased CDS on the street in Asbury Park. That's the way it was. ... His co-defendant says that this defendant purchased cocaine on the street. That's what he said he did. He in fact indicated that it somehow miraculously flew in the window, if my recollection is correct, when someone walked up and was asking him directions or they were asking them directions. I didn't believe it. The jury obviously didn't believe it. He has no credibility in that regard.

Transcript of sentencing, S-4, pgs. 4-5.

a factor militating against the imposition of any custodial sentence.<sup>6</sup>

We are able to glean from the documents in the record substantial information about the events which led to respondent's arrest and conviction, as information detailing the circumstances of the arrest and respondent's conduct at the time he was arrested is recounted in the police investigative reports which are before us. (S-1, S-2). Respondent was arrested on September 28, 2003, after he was observed purchasing illegal drugs by police officers conducting undercover surveillance in a known high drug traffic area of Asbury Park (S-1). When Officer Brian Townsend approached the passenger side of the car (respondent was a passenger in a car driven by Robert Cerone), he observed that respondent "had his

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<sup>6</sup> Respondent's attorney stated at sentencing:

At this time we acknowledge and fully accept responsibility for the actions in this case. Mr. Soriano is extremely remorseful for what occurred. He's trying to alleviate the genesis of the problem. In this particular case he has enrolled in a drug treatment program and is seeking counseling actively at this present time.

Your Honor, he's the father of 7 children. We're going to have to fight this disposition with the Medical Board, and hopefully we'll be able to retain his license with some sort of condition imposed on that. Your Honor, based upon the fact that he fully accepts responsibility pursuant to 2C:44-3, .... we respectfully request that you impose a probationary term and that probationary term be the minimum 2-year probation, your Honor.

Transcript of sentencing, S-5, p. 2-3.

right fist clinched and was sweeping small pieces of white substance from his pants." Id. Officer Townsend asked respondent what he had in his hand and asked him to unclench his right fist, whereupon respondent moved an item over into his left hand, clenching that fist, and then opened his right hand. Id. After respondent was asked to step out of the car, Officer Townsend observed Dr. Soriano "place his left hand between his legs and open his fist" and saw what he suspected to be crack cocaine "fall into the seat." Id. The CDS was retrieved and secured as evidence. Id.

Respondent was then transported to Asbury Park Police headquarters, where he was charged with possession of crack cocaine. Id. While being processed at police headquarters, respondent made repeated statements that indicated that he was aware that he had a drug problem which could jeopardize his continued medical licensure.<sup>7</sup>

We conclude, as a matter of law, that respondent's conviction (and the facts established thereby) provide a predicate for this Board to suspend or revoke respondent's license, as the crime which respondent was convicted of is unquestionably a crime

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<sup>7</sup> Dr. Soriano asked several times whether "there were anything we can do about this," and went on to "explain that he was a doctor and that he was afraid that his medical license would be in jeopardy for drug possession." Dr. Soriano further stated that he "had a drug problem" that "he was trying to work on." (S-2, Supplementary Report of Sergeant James A. Scully).

which relates adversely to the activity regulated by this Board, and respondent's conduct clearly constitutes professional misconduct. Respondent's conviction for having illegally possessed crack cocaine necessarily raises fundamental concerns about the possible impairment of respondent's judgment. Those concerns are only augmented when we consider that, as a licensed physician, respondent should be presumed to be particularly aware of the acute hazards and risks, and deleterious effects, of crack cocaine usage (if for no other reason than to be able to appropriately provide guidance and/or treatment to any of his patients who might suffer from problems of drug addiction). We also point out that the crime relates adversely to the profession for the reason that respondent's conviction lowers the professional regard and standing of physicians in the eyes of the public.<sup>8</sup>

We herein expressly reject the arguments that have been advanced by respondent in opposition to our granting summary decision on Count 1 of the Complaint. Initially, we reject respondent's present suggestion that the Board should not rely on the conviction as a basis for action based on respondent's protestations of innocence. We thus place no weight upon respondent's present statement that "I have always maintained my

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<sup>8</sup> Having found that the offense respondent was convicted of is a crime which relates adversely to the practice of medicine, we find it unnecessary to presently resolve the disputed question whether the crime was a crime involving "moral turpitude."

innocence and have never admitted to having a substance abuse problem or that I require treatment for same." (R-1). As evident from the transcript of sentencing, respondent's claim that he was not purchasing narcotics on September 28, 2003, but was instead simply asking for directions, was found not credible by the jury. Respondent's claim also is entirely inconsistent with the statement made by his counsel at sentencing that respondent acknowledged and fully accepted responsibility for his actions. Simply put, respondent may not use this forum to relitigate his guilt or innocence of the criminal charges.<sup>9</sup>

We similarly reject respondent's suggestion that the Attorney General's motion for summary decision is premature because an appeal of his conviction is pending in the Appellate Division, and his corollary argument that any action by this Board based on

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<sup>9</sup> In a similar fashion, we find respondent's present attempt to distance himself from and disavow the statements he and his counsel previously made acknowledging a substance abuse problem to be disingenuous (see footnotes 6 and 7, *infra*). Indeed, if respondent is now suggesting that his counsel (respondent is represented by the same law firm in this proceeding that represented him in the criminal trial) made misrepresentations to the sentencing judge regarding respondent's having acknowledged responsibility for his actions, enrolled in a drug treatment program and sought counseling, that suggestion would raise substantial concern that an effort was made to deceive the sentencing judge when respondent's criminal sentence was imposed. Alternatively, if counsel's statement to the sentencing judge was accurate, then respondent's present disavowal of counsel's statement necessarily raises substantial questions and doubts regarding his honesty before this Board, as well as concerns whether respondent may be in denial of a present drug impairment.

the conviction must be held in abeyance until appellate proceedings are concluded. Indeed, we point out that were the Board to be required to refrain from taking any action against a licensee based on a conviction until all appeals of a conviction were exhausted, a licensee could forestall the imposition of any disciplinary sanction by this Board based on his or her conviction simply by filing an appeal of the conviction (a result which was clearly not intended by the legislature, given that N.J.S.A. 45:1-21(f) contains no provision that would require the Board to await the conclusion of appellate proceedings before acting on a physician's criminal conviction).<sup>10</sup>

Finally, we reject respondent's contention that we would be precluded from deciding this case in a summary fashion by application of the holding made in Matter of Andrew Fanelli, 174 N.J. 165 (2002). Dr. Soriano's case is readily distinguishable from Dr. Fanelli's case, as the quantum of information before the Board detailing the conduct in which Dr. Soriano engaged far exceeds that which was before the Board in Fanelli. We thus have the benefit of having a clear picture and understanding of the conduct in which Dr. Soriano engaged, as that window has been

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<sup>10</sup> In rejecting respondent's claim that this matter is not presently ripe for summary decision because an appeal is pending, we point out that there has been no stay entered by any Court of respondent's conviction or sentence. Additionally, in the event respondent's conviction were to be overturned on appeal, he would of course be free to petition this Board for an Order vacating the decision entered today.

opened wide by our having before us both the police investigative reports and the transcripts of the jury charge and sentencing. Dr. Soriano's case is also readily distinguishable from Fanelli, given that Dr. Soriano was convicted not on a guilty plea but following a two day jury trial at which Dr. Soriano testified.

*B. Denial of Motion for Summary Decision on Count 2*

While we grant summary decision on Count 1, we conclude that it would be improper to presently grant summary decision on Count 2 of the Complaint. The issue whether respondent is "presently" impaired is reasonably in dispute based on the June 13, 2006, letter respondent has submitted from Paul Buttros, General Manager of the Flynn Fellowship Houses of New Jersey.

In denying the Attorney General's motion for summary decision on Count 2, we do note that we have substantial questions concerning the nature and extent of the treatment and drug testing that was conducted by the Flynn Fellowship Houses, as there is little detail that can be gleaned from Mr. Buttros' letter and we thus have no way of knowing at this juncture how much weight and credence to afford Mr. Buttros' statements. But, for that reason alone, we conclude that disposition of Count 2 by way of summary decision would be inappropriate, as there are genuine issues of fact that presently exist.

### *Mitigation Hearing and Penalty Determinations*

After announcing our decision to grant summary decision on Count 1 of the Complaint, Dr. Soriano was afforded an opportunity to be heard on the issue of penalty to be assessed, and afforded an opportunity at that hearing to present mitigation evidence to the Board. Dr. Soriano elected to testify on his own behalf at the mitigation hearing. Dr. Soriano asked that the Board be merciful and impose minimal sanctions. He testified that he has substantial financial obligations, as he has seven children, four of whom he is supporting. Dr. Soriano also suggested to the Board that he was without means to pay substantial fines or penalties, claiming that he does not own any real property and drives a 2000 Chrysler. Dr. Soriano offered copies of his 2003, 2004 and 2005 tax returns, showing annual income of approximately \$56,300 in 2003, \$9,700 in 2004 and \$3,800 in 2005 (R-3, R-4 and R-5) for the Board to consider. He further maintained that he had never consumed illegal narcotics and never purchased illegal narcotics.

Following Dr. Soriano's testimony, members of the Board had opportunity to pose questions to Dr. Soriano. While a detailed discussion of questions posed and Dr. Soriano's responses thereto is beyond the scope of this Order, we find it significant to herein point out that we found Dr. Soriano's responses to questions posed by Board members -- to include questions concerning his present and past medical practice, billings for medical services he provided,



his present health, a prior arrest in 1994, and concerning his prior involvement with the PAP -- were repeatedly confused and contradictory, and at points unintelligible. We are particularly troubled by Dr. Soriano's failure to give coherent answers to questions posed concerning his present health, as that failure necessarily raises concerns whether Dr. Soriano is in fact presently fit and competent to practice medicine. By way of example, Dr. Soriano at one point testified that he had been advised by his own physician that he may be suffering from bipolar disorder, and suggested that CAT scan evaluations had been performed on recommendations made by his physician(s). Dr. Soriano failed or was unable, however, to give a consistent explanation detailing what any particular physician had diagnosed or recommended, or to even consistently explain when any visits had occurred with any given physician. We were similarly puzzled by Dr. Soriano's responses to questions concerning the reasons for his initial involvement with the PHP and his interactions with the PHP, as Dr. Soriano's testimony of events which led to his initial referral was particularly confused.<sup>11</sup>

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<sup>11</sup> Dr. Soriano suggested that he was initially referred to the PHP after he was arrested when giving someone a "ride" to the "projects in Newark," where there was a "police riot" and "cocaine at the scene." He further explained that he had "exposure to potential problems" because "one of the women was a prostitute," and then added "Newark is full of prostitution and cocaine and everything else, and luckily I've never gone there." When respondent suggested that he had then been accepted into PTI, respondent's counsel suggested that respondent "doesn't sound like

Upon consideration of the record before us, to include the mitigation evidence offered by respondent, we conclude that respondent's conviction fully supports the entry of an order of licensure suspension, and we therefore order the suspension of his license for six months. While we are not today deciding whether cause exists to support the allegations of present impairment in Count 2 of the complaint, we would be remiss in our duty to protect the public were we not to herein expressly recognize that we harbor significant concerns about respondent's present fitness and competency to practice medicine (based on his conviction for illegal possession of crack cocaine, his repeated acknowledgments of substance abuse problems, his repeated prior failures to cooperate with the PHP, and based on the concerns about his competency engendered by his confused testimony during the mitigation phase of the hearing).

In order to seek to assure that respondent is in fact fit to resume practice six months from now (or at such later time that respondent may apply for reinstatement), and thereby effect our paramount goal to protect public health, safety and welfare, we herein condition any reinstatement of respondent's license upon his first securing comprehensive neuropsychiatric and medical examinations. Additionally, respondent must immediately establish

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he has an understanding" and that respondent's testimony may not be "accurate."

contact with and enroll in the Professional Assistance Program of New Jersey (the "PAP"), and must be able to demonstrate, at such time that he may apply for reinstatement, that the PAP supports his application for reinstatement and that he has been compliant with any substance abuse treatment or monitoring recommendations (to include, without limitation, random urine monitoring) that may be made by the PAP.<sup>12</sup>

#### *Costs and Penalties*

The Attorney General seeks the assessment of the following costs against respondent: investigative costs in the amount of \$3,606.15, and attorneys' fees in the amount of \$6,246.50.<sup>13</sup> Respondent did not raise any specific objection to any

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<sup>12</sup> We note that we are cognizant that there is documentation in the record, to include a certification from Louis Baxter, Medical Director of the PAP, that suggests that there has been a history of difficulties in interactions between respondent and the PAP (Dr. Baxter states in his certification that Dr. Soriano refused, on May 3, 2005, to follow treatment recommendations made by the PAP, and that, during his prior participation with the PHP, Dr. Soriano was formally discharged on April 11, 2003, after he created a hostile and non-therapeutic relationship with staff). We trust that the PAP will presently be able to provide treatment and monitoring services to Dr. Soriano, notwithstanding the prior difficulties. In the event, however, that the PAP should refuse to accept Dr. Soriano into its program, then Dr. Soriano may petition the Board to recognize an alternate program to provide the evaluation, treatment and monitoring services that we herein are requiring him to secure.

<sup>13</sup> The Attorney General submitted, in support of the application for costs, the following documents:

S-9 Certification of Richard L. Perry, Supervising Investigator, dated September 21, 2006 (detailing basis for investigative costs of \$3,606.15.

item of costs that have been raised, nor did he object to the rates of compensation that are sought. As noted above, respondent did beseech the Board to be temperate in assessing costs or monetary penalties against him, based on his claimed substantial present financial obligations and limited means.

We have conducted an independent review of the submissions made in support of the cost application, and are entirely satisfied that the costs sought are reasonable in this case. We are further satisfied that the significant import of this matter fully supports and warrants the time expenditures that were made both by the Enforcement Bureau in its investigative activities, and by the Attorney General in his pursuit of this matter, and are further satisfied that the attorneys' fee application is reasonable both with regard to the number of hours of time for which reimbursement is sought (40.3 hours) and with regard to the hourly rates (\$155 per hour) that are sought for the services. We find it entirely appropriate to assess all costs sought against respondent.

While we also are satisfied that it would ordinarily be appropriate to assess a monetary penalty against respondent, we

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S-10 Division of Law Timekeeping Reports (detailing attorney time spent in the matter of Dr. Soriano)

S-11 Memorandum from Nancy Kaplen, Acting Director, to Division of Law Staff (setting forth uniform rate of compensation in cases where the State is entitled to recovery of fees).

will, in light of the claims made by respondent regarding his present desperate financial condition (and given our recognition that respondent is being assessed over \$9,000 in costs and will likely incur additional expense, should he seek reinstatement of license, to secure the evaluations that we herein order), waive the assessment of any monetary penalties against respondent at this time.

WHEREFORE, it is on this 14th day of Dec. , 2006

ORDERED *nunc pro tunc* November 8, 2006:

1. The license of respondent Jan Soriano, M.D., to practice medicine and surgery in the State of New Jersey is hereby suspended, effective immediately, for a minimum period of six months. Dr. Soriano shall, not later than November 18, 2006, make arrangements for the transfer of care of any patients he may presently be caring for and for the transfer of said patient's medical records to a subsequent treating physician.

2. Dr. Soriano may apply for reinstatement of his medical license after serving not less than six months of suspension. Dr. Soriano shall then be required to appear before a Committee of the Board and to make a demonstration, to the satisfaction of the Board, that he is fit and competent to resume the practice of medicine in New Jersey and that he is not then suffering from any impairment or other condition that might compromise his ability to practice medicine. Respondent shall be

required to present a detailed plan for the resumption of practice of medicine, which plan shall need to be approved by the Board. Prior to appearing before a Committee of the Board, respondent shall be required to demonstrate that he has complied with the following conditions:

a) Dr. Soriano shall submit to a neuropsychiatric evaluation, to be conducted by a physician who shall be approved in advance by the Board. Said physician shall be provided with copies of reports of any prior neuropsychiatric testing or evaluations and copies of any previously performed imaging studies that may be available. The examining physician shall provide a report to the Board detailing the results of said evaluation, to include any recommendations that he or she may have for treatment or follow-up care. In the event any recommendations are made for treatment or follow-up care, Dr. Soriano shall additionally be required to demonstrate that he is then complying with any recommendations made.

b) Dr. Soriano shall submit to a medical evaluation by a physician who shall be approved by the Board. The examining physician shall provide a report to the Board detailing the results of said evaluation, to include any recommendations that he or she may have for treatment or follow-up care. In the event any recommendations are made for treatment or follow-up care, Dr.

Soriano shall be required to demonstrate that he is then complying with any recommendations made.

c) Dr. Soriano shall immediately enroll in and participate with the Professional Assistance Program of New Jersey (the "PAP"). The PAP shall conduct an initial evaluation of Dr. Soriano, and shall then formulate such monitoring program that the PAP may deem appropriate to assure that Dr. Soriano is not engaged in the use of illegal drugs and/or from any other impairment. Dr. Soriano shall be required to demonstrate that he has fully complied with all conditions and recommendations that may be made by the PAP. In the event that the PAP is not able to provide services to Dr. Soriano, then Dr. Soriano shall be required to submit a plan for evaluation and monitoring to be conducted by another entity specializing in the evaluation of impairment that is deemed acceptable by the Board.

3. Dr. Soriano is hereby assessed costs in the aggregate total of \$9,852.65. The assessment shall be paid in full within thirty days of the entry of this Order, or pursuant to such payment plan, to include assessment of interest at rates consistent with those allowed by the Rules of Court, that may be deemed acceptable by the Board.

4. The Board has determined to waive the imposition of monetary penalties, based on the information presented by

respondent during the mitigation hearing regarding his financial condition and obligations.

5. The Board expressly reserves all rights, in the event that the Board decides to grant any application for reinstatement made by Dr. Soriano, to impose any conditions or limitations on Dr. Soriano's practice that the Board may then, in its reasonable discretion, deem to be appropriate.

NEW JERSEY STATE BOARD OF  
MEDICAL EXAMINERS

*Sindy M. Paul, MD, MPH*

By: \_\_\_\_\_

Sindy M. Paul, M.D.  
Board President